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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[EPA-R01-RCRA-2018-0431; FRL-9993-77-Region 1]

#### New Hampshire: Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final authorization.

**SUMMARY:** The Environmental Protection Agency (EPA) is granting New Hampshire final authorization for changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on March 1, 2019, and provided for public comment. Four (4) comments were received during the public comment period. A summary and response to these comments is provided below. These comments did not affect EPA's decision. No further opportunity for comment will be provided.

**DATES:** This final authorization is effective *[insert date of publication in the Federal Register]*.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R01-RCRA-2018-0431. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

electronically through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Stephen Yee, RCRA Waste Management, UST & Pesticides Section, Land, Chemicals and Redevelopment Division, EPA Region 1, 5 Post Office Square, Suite 100 (Mail Code: 07-1), Boston, MA 02109-3912, Tel: (617) 918-1197; Fax: (617) 918-0197, email: [yee.steve@epa.gov](mailto:yee.steve@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. What changes to New Hampshire's hazardous waste program is EPA authorizing with this action?**

On September 10, 2018, New Hampshire submitted a complete program revision application seeking authorization of changes to its hazardous waste program in accordance with 40 CFR 271.21. EPA now makes a final decision that New Hampshire's hazardous waste program revisions that are being authorized are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all of the requirements necessary to qualify for final authorization. For a list of State rules being authorized with this Final Authorization, please see the Proposed Rule published in the March 1, 2019, Federal Register at 84 FR 7010.

During the public comment period, EPA received four (4) comments. These comments can be found at: <https://www.federalregister.gov/documents/2019/03/01/2019-03590/new-hampshire-proposed-authorization-of-state-hazardous-waste-management-program-revisions>. EPA has reviewed these comments, which overall were supportive of EPA's proposed authorization, and did not identify any specific factual or legal deficiency in EPA's proposed authorization, or were outside the scope of EPA's proposed action. Accordingly, they have not altered EPA's final decision to authorize the New Hampshire's program revisions. EPA will

forward these comments to the State for their consideration.

Also, the following additions and corrections will become part of the authorized program:

1. EPA inadvertently omitted two (2) Revision Checklists (RC) during the preparation of the Proposed Rule Federal Register Notice. These RCs were:

RC 82 – Wood Preserving Listings, and

RC 192B - Land Disposal Restrictions (LDR) Correction. (RC 192B is cited in the Special Consolidated Checklist (SCC) Phases I-IV LDR as of 12/31/2002).

The revisions in the RCs were incorporated into the NH regulations and the provision are equivalent to the Federal regulations.

2. The following standalone checklists were inadvertently repeated in the SCC for the Phases I-IV LDRs as of 12/31/2002 during the preparation of the Proposed Rule Federal Register Notice. They are:

RC 117A - "Mixture" and "Derived-From" Rules; Response to Court Remand, and

RC 178 - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; Exemption for Leachate from Non-Hazardous Waste Landfills.

3. The following checklist was inadvertently listed in the SCC for Wood Preserving during the preparation of the Proposed Rule Federal Register Notice, it should have been listed in the SCC for the Phases I-IV LDRs as of 12/31/2002:

RC 162 - Clarification of Standards for Hazardous Waste LDR Treatment Variances.

**B. What is codification and is EPA codifying the New Hampshire's hazardous waste program as authorized in this rule?**

Codification is the process of placing citations and references to the State's statutes and

regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by adding those citations and references to the authorized State rules in 40 CFR part 272. EPA is not codifying the authorization of New Hampshire's revisions at this time. However, EPA reserves the ability to amend 40 CFR part 272, subpart EE for the authorization of New Hampshire's program at a later date.

### **C. Statutory and Executive Order Reviews**

This final authorization revises New Hampshire's authorized hazardous waste management program pursuant to section 3006 of RCRA and imposes no requirements other than those currently imposed by State law. For further information on how this authorization complies with applicable executive orders and statutory provisions, please see the Proposed Rule published in the March 1, 2019 Federal Register at 84 FR 7010. The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This final action is effective ***[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]***.

## **List of Subjects in 40 CFR Part 271**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: May 1, 2019.

Deborah A. Szaro,  
Acting Regional Administrator,  
EPA Region 1

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